

Serial No.: 09/057,313
Attorney Docket No.: 033449-002
Amendment

Remarks

Claims 16, 22, 24 and 25 have been amended and new claims 36-40 have been added. A marked-up copy of claims 16, 22, 24 and 25, identifying the changes thereto, accompanies this Amendment. Review and reconsideration of the application is respectfully requested.

Claims 16-19, 21, 22 and 24-35 are rejected as allegedly defining obvious subject matter over U.S. Pat. No. 4,325,667 to Freeman in light of U.S. Pat. No. 3,691,595 to Backteman et al. Accordingly, claims 16, 22, 24 and 25 have been amended to specify that the vehicle used to lift and transport the containers includes a body portion and a gripping portion including a spreader attachment, the gripping portion being capable of being raised and lowered, rotated, and inclined relative to the body portion. As noted at page 3, lines 10-18 and page 7, lines 17-28 of the originally-filed application, a vehicle that has these multi-degree ranges of movement enables the containers to be lifted and properly oriented. Furthermore, such a vehicle (such as a reach stacker) can accurately and precisely stack the containers in the desired manner.

In contrast, the forklift of the Freeman reference lacks the maneuverability of the vehicle as defined in claims 16, 22, 24 and 25. It appears that the lifting fork of the device of the Freeman reference can only be raised and lowered, and cannot be rotated and inclined relative to the body portion. The forklift of the Freeman reference also lacks a spreader attachment. The additional range of motion provided by the vehicle of claims 16, 22, 24 and 25 enables the vehicle to stack the container in a variety of configurations, as noted at page 7, lines 22-29 of the originally-filed specification. Accordingly, it is submitted that each of the independent claims define over the cited references, and it is requested that the rejection of claims 16, 22, 24 and 25 be withdrawn.

New claims 36 and 37 further define one embodiment and further distance the claimed invention from the cited references. New claim 38 specifies that each container includes a pair of opposed receptacles, and that the spreader is received in the receptacles during the lifting and transporting step. It is submitted that this amendment does not add any new matter, because one of ordinary skill in the art would be familiar with the shape and operation of the receptacles, and due to the support provided at page 7, lines 21-22 of the originally-filed application.

Serial No.: 09/057,313
Attorney Docket No.: 033449-002
Amendment

New claim 39 specifies that the vehicle grips each container at or adjacent to a top edge thereof, as shown in Fig. 1 of the originally-filed specification. Gripping the containers at or adjacent to a top edge thereof enables the container to be easily stacked one on top of another, and it is submitted that the Freeman and Backteman references do not disclose using a vehicle to grip the containers at or adjacent to an upper edge.

New claim 40 specifies that the rail has a downwardly depending lip and that the rail is coupled to the marine vessel such that the lip is located adjacent to and inwardly of the rail. The cited art does not appear to disclose the subject matter of claim 40, which further distances the claimed invention from the cited art.

It is noted that the outstanding Office action is indicated to be a final Office action. The undersigned would like to thank the Examiner for a telephone interview on November 16, 2001, to discuss the status of this Office action as a final Office action. In that telephone conversation the Examiner indicated that the finality of the Office action would be withdrawn for the reasons discussed below. Accordingly, this amendment has assumed that the finality of the outstanding Office action will be withdrawn.

In a telephone conversation between the undersigned and the Examiner on August 2, 2001, the claims of this application and the Freeman reference were discussed. A proposed amendment that would amend the claims to specify that the containers include a set of outer walls defining an inner volume therein, and that the freight is stacked inside the inner volume, was discussed at that time. The Examiner indicated that such an amendment would likely overcome the (at that time) outstanding anticipation rejection of the claims over the Freeman reference. During that conversation the Examiner also indicated that such an amendment would be refused entry because the application was, at that time, under a final rejection. Accordingly, on August 31, 2001, applicant proceeded to file a Request for Continued Examination, along with a preliminary amendment which amended the claims in the discussed manner.

MPEP §706.07(b) notes that it would not be proper to make final a first Office action in a continuing application where that application contains material which was presented in the earlier application after final rejection but was denied entry because the issue of new matter was

Serial No.: 09/057,313
Attorney Docket No.: 033449-002
Amendment

raised. As noted above, applicant orally offered to present an amendment in the earlier application which would amend the claims to specify that the containers have a set of outer walls defining an inner volume. However, as noted above, applicant was informed that such an amendment would be denied entry. The preliminary amendment that accompanied the RCE amended the claims to specify that the containers have a set of outer walls defining an inner volume. Accordingly, it is submitted that this first Office action in this application should not be a final Office action. In accordance with the conversation of November 16, 2001, it is requested that the finality of the Office action of September 28, 2001 be withdrawn.

In view of the foregoing amendments, the application appears to be in a condition for allowance, and a formal notice thereof is requested. The Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or to credit any overpayment to Deposit Account 20-0809.

Respectfully submitted,



Steven J. Elleman
Reg. No. 41,733

THOMPSON HINE LLP
2000 Courthouse Plaza NE
10 West Second Street
Dayton, Ohio 45402-1758
(937) 443-6838

Serial No.: 09/057,313
Attorney Docket No.: 033449-002
Amendment

MARKED-UP COPY OF AMENDED CLAIMS

16. (Three Times Amended) A method of loading containers on a marine vessel comprising the steps of:

selecting a plurality of containers adapted to contain and protect freight in a marine environment, each container having a set of outer walls defining an inner volume;

loading freight into said inner volume;

providing a vehicle including a body portion and a gripping portion including a spreader attachment, said gripping portion being capable of being raised and lowered, rotated, and inclined relative to said body portion;

individually lifting and transporting each container by means of [a] said vehicle over a ramp to a storage deck of a marine vessel, said ramp and storage deck having sufficient strength to support said vehicle when said vehicle is transporting a fully loaded one of said containers;

positioning each container at desired locations on said deck by means of said vehicle for transportation by said marine vessel; and

securing said container to said deck at said locations.

22. (Three Times Amended) A method of offloading containers from a marine vessel comprising the steps of:

selecting a plurality of containers adapted to contain and protect freight in a marine environment located on a deck of a marine vessel, each container having a set of outer walls defining an inner volume and having freight loaded therein;

providing a vehicle including a body portion and a gripping portion including a spreader attachment, said gripping portion being capable of being raised and lowered, rotated, and inclined relative to said body portion;

individually lifting and transporting each container by means of [a] said vehicle over a ramp from a storage deck of a marine vessel, said ramp and storage deck having sufficient

Serial No.: 09/057,313
Attorney Docket No.: 033449-002
Amendment

strength to support said vehicle when said vehicle is transporting a fully loaded one of said containers;

placing each container at desired locations on an associated dock by said vehicle.

24. (Three Times Amended) A method of transporting containers by a marine vessel comprising the steps of:

selecting a plurality of containers adapted to contain and protect freight in a marine environment, each container having a set of outer walls defining an inner volume;

loading freight into said inner volume;

providing a vehicle including a body portion and a gripping portion including a spreader attachment, said gripping portion being capable of being raised and lowered, rotated, and inclined relative to said body portion;

individually lifting and transporting each container by means of [a] said vehicle over a ramp to a storage deck of a marine vessel, said ramp and storage deck having sufficient strength to support said vehicle when said vehicle is transporting a fully loaded one of said containers;

individually positioning each container in vertical stacks at desired locations on said deck by means of said vehicle for transportation by said marine vessel, and securing said containers in vertical stacks to each other by means of semiautomatic twistlocks;

securing each container to said deck at said locations by semiautomatic twistlocks;

towing said marine vessel with each container secured to said deck thereof from a loading site to a destination site; and

offloading each container from said vessel at said destination site by a reach stacker vehicle.

25. (Four Times Amended) A method of transporting containers with a marine vessel comprising the steps of:

Serial No.: 09/057,313
Attorney Docket No.: 033449-002
Amendment

selecting a plurality of containers adapted to contain and protect freight in a marine environment, each container having a set of outer walls defining an inner volume and having freight loaded therein;

providing a vehicle including a body portion and a gripping portion including a spreader attachment, said gripping portion being capable of being raised and lowered, rotated, and inclined relative to said body portion;

lifting a container by means of [a] said vehicle;

causing said vehicle to travel over a ramp to a storage deck of a marine vessel, said ramp and storage deck having sufficient strength to support said vehicle when said vehicle is transporting a fully loaded one of said containers;

positioning said container at a desired location on said deck by means of said vehicle; and

repeating said lifting, causing and positioning steps for each of said plurality of containers.

210456.1